

House File 2392 - Introduced

HOUSE FILE _____
BY COMMITTEE ON LOCAL
GOVERNMENT

(SUCCESSOR TO HF 2133)

Passed House, Date _____ Passed Senate, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to certain city utilities or city enterprises by
2 making changes to procedures for notice and collection of
3 delinquent charges and by making changes to billing
4 notifications for water service provided to certain
5 residential rental property.
6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
7 TLSB 5133HV 82
8 sc/rj/l4

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1 1 Section 1. Section 384.84, subsection 2, paragraphs c and
1 2 d, Code 2007, are amended to read as follows:
1 3 c. A city utility or enterprise service to a property or
1 4 premises shall not be discontinued unless prior written notice
1 5 is sent, by ordinary mail, to the account holder by ordinary
~~1 6 mail in whose name the delinquent rates or charges were~~
1 7 incurred, informing the account holder of the nature of the
1 8 delinquency and affording the account holder the opportunity
1 9 for a hearing prior to discontinuance of service. If the
1 10 account holder is a tenant, and if the owner or landlord of
1 11 the property has made a written request for notice, the notice
1 12 shall also be given to the owner or landlord.
1 13 d. (1) If a delinquent amount is owed by an account
1 14 holder for a utility service associated with a prior property
1 15 or premises, a city utility, city enterprise, or combined city
1 16 enterprise may withhold service from the same account holder
1 17 at any new property or premises until such time as the account
1 18 holder pays the delinquent amount owing on the account
1 19 associated with the prior property or premises. A city
1 20 utility, city enterprise, or combined city enterprise shall
1 21 not withhold service from, or discontinue service to, a
1 22 subsequent owner who obtains fee simple title of the prior
1 23 property or premises unless such delinquent amount has been
1 24 certified in a timely manner to the county treasurer as
1 25 provided in subsection 3, paragraph "a", subparagraphs (1) and
1 26 (2).
1 27 (2) Delinquent amounts that have not been certified in a
1 28 timely manner to the county treasurer are not collectible
1 29 against any subsequent owner of the property or premises.
1 30 Sec. 2. Section 384.84, subsection 3, Code 2007, is
1 31 amended to read as follows:
1 32 3. a. (1) Except as provided in paragraph "d", all rates
1 33 or charges for the services of sewer systems, storm water
1 34 drainage systems, sewage treatment, solid waste collection,
1 35 water, solid waste disposal, or any of these services, if not
2 1 paid as provided by ordinance of the council or resolution of
2 2 the trustees, are a lien upon the property or premises served
2 3 by any of these services upon certification to the county
2 4 treasurer that the rates or charges are due.
2 5 (2) If the delinquent rates or charges were incurred prior
2 6 to the date a transfer of the property or premises in fee
2 7 simple is filed with the county recorder and such
2 8 delinquencies were not certified to the county treasurer prior
2 9 to such date, the delinquent rates or charges are not eligible
2 10 to be certified to the county treasurer. If certification of
2 11 such delinquent rates or charges is attempted subsequent to
2 12 the date a transfer of the property or premises in fee simple
2 13 is filed with the county recorder, the county treasurer shall
2 14 return the certification to the city utility, city enterprise,

2 15 or combined city enterprise attempting certification along
2 16 with a notice stating that the delinquent rates or charges
2 17 cannot be made a lien against the property or premises.
2 18 (3) If the city utility, city enterprise, or combined city
2 19 enterprise is prohibited under subparagraph (2) from
2 20 certifying delinquent rates or charges against the property or
2 21 premises served by the services described in subparagraph (1),
2 22 the city utility, city enterprise, or combined city enterprise
2 23 may certify the delinquent rates or charges against any other
2 24 property or premises located in this state and owned by the
2 25 account holder in whose name the rates or charges were
2 26 incurred.

2 27 b. ~~This~~ The lien under paragraph "a" may be imposed upon a
2 28 property or premises even if a city utility or enterprise
2 29 service to the property or premises has been or may be
2 30 discontinued as provided in this section.

2 31 c. A lien for a city utility or enterprise service under
2 32 paragraph "a" shall not be certified to the county treasurer
2 33 for collection unless prior written notice of intent to
2 34 certify a lien is given to the account holder ~~of~~ in whose name
2 35 the delinquent ~~account~~ rates or charges were incurred at least
3 1 thirty days prior to certification. If the account holder is
3 2 a tenant, and if the owner or landlord of the property has
3 3 made a written request for notice, the notice shall also be
3 4 given to the owner or landlord. The notice shall be sent to
3 5 the appropriate persons by ordinary mail not less than thirty
3 6 days prior to certification of the lien to the county
3 7 treasurer.

3 8 d. Residential rental property where a charge for water
3 9 service is separately metered and paid directly to the city
3 10 utility or enterprise by the tenant is exempt from a lien for
3 11 delinquent rates or charges associated with such water service
3 12 if the landlord gives written notice to the city utility or
3 13 enterprise that the property is residential rental property
3 14 and that the tenant is liable for the rates or charges. A
3 15 city utility or enterprise may require a deposit not exceeding
3 16 the usual cost of ninety days of water service to be paid to
3 17 the utility or enterprise. Upon receipt, the utility or
3 18 enterprise shall acknowledge the notice and deposit. A
3 19 written notice shall contain the ~~name of the tenant~~
3 20 ~~responsible for charges~~, address of the residential rental
3 21 property that the tenant is to occupy, and the date that the
3 22 occupancy begins. ~~A change in tenant shall require a new~~
3 23 ~~written notice to be given to the city utility or enterprise~~
3 24 ~~within ten business days of the change in tenant.~~ When the
3 25 tenant moves from the rental property, the city utility or
3 26 enterprise shall return the deposit if the water service
3 27 charges are paid in full. A change in the ownership of the
3 28 residential rental property shall require written notice of
3 29 such change to be given to the city utility or enterprise
3 30 within ten business days of the completion of the change of
3 31 ownership. The lien exemption for rental property does not
3 32 apply to charges for repairs to a water service if the repair
3 33 charges become delinquent.

3 34 EXPLANATION

3 35 This bill relates to certain services provided by a city
4 1 utility or city enterprise by making changes to the procedures
4 2 for notice and collection of delinquent rates and charges and
4 3 by making changes to billing notifications for water services
4 4 provided to certain residential property by a city utility or
4 5 city enterprise.

4 6 Under current law, delinquent rates or charges for the
4 7 services of water, sewer systems, storm water drainage
4 8 systems, sewage treatment, or solid waste collection and
4 9 disposal provided by a city utility, city enterprise, or
4 10 combined city enterprise (utility) become a lien against the
4 11 property receiving the services upon certification of the
4 12 delinquent amount to the county treasurer. The delinquent
4 13 amount then becomes collectible as a special assessment.
4 14 Special assessments are collected in the same manner as
4 15 property taxes. Current law also provides that service may be
4 16 discontinued at the property if rates or charges for these
4 17 services become delinquent. Notice of discontinuance of
4 18 service or notice of intent to certify a delinquency to the
4 19 county treasurer for collection must be provided to the
4 20 account holder.

4 21 The bill specifies that notice of discontinuance or notice
4 22 of intent to certify a delinquency to the county treasurer
4 23 must be provided to the account holder in whose name the
4 24 delinquent rates or charges were incurred.

4 25 The bill also provides that if delinquent rates or charges

4 26 were incurred prior to the date a fee simple transfer of the
4 27 property where the service was provided is filed with the
4 28 county recorder, and such delinquency was not certified to the
4 29 county treasurer prior to the date the transfer was filed, the
4 30 delinquency is not eligible for certification to the county
4 31 treasurer, and if certification of such a delinquency is
4 32 attempted, the county treasurer is directed to return the
4 33 certification to the utility along with a notice stating that
4 34 the delinquent rates or charges cannot be made a lien against
4 35 the property. However, the delinquent rates or charges may be
5 1 certified against any other property or premises located in
5 2 the state and owned by the account holder in whose name the
5 3 delinquent amount was incurred.
5 4 The bill further provides that service to a new account
5 5 holder may not be withheld or discontinued based on delinquent
5 6 charges incurred by a prior account holder at the same
5 7 premises unless the utility has certified the delinquent
5 8 amount to the county treasurer in a timely manner, i.e., prior
5 9 to the date a transfer of the property in fee simple is filed
5 10 with the county recorder. The bill also provides that such
5 11 delinquent amount is not collectible from the new account
5 12 holder unless the delinquent amount has been certified to the
5 13 county treasurer in a timely manner, i.e., prior to the date
5 14 the transfer of the property is filed with the recorder.
5 15 Under current law, if water service is separately metered
5 16 and paid directly by a tenant of residential rental property,
5 17 the owner of the property, in order to be exempt from a lien
5 18 for delinquent rates or charges, is required to notify the
5 19 city utility that the property is rental property, that the
5 20 tenant is responsible for water charges at the property, and
5 21 the name of the tenant. The owner must also notify the city
5 22 utility each time there is a change in tenant at the
5 23 residential rental property within 10 days of the change in
5 24 tenant. The bill strikes the requirement that the owner
5 25 notify the city utility of the name of the tenant and the
5 26 requirement that the owner notify the city utility each time
5 27 there is a change in tenant at the residential rental
5 28 property.
5 29 LSB 5133HV 82
5 30 sc/rj/14